

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELIZA RAMOS,

Plaintiff,

Civil Action No.:

- against -

NOTICE OF REMOVAL

AMF BOWLING CENTERS, INC.,

Defendant.
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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Defendant-Petitioner, AMF BOWLING CENTERS, INC. (hereinafter “Defendant-Petitioner”), by and through its counsel of record, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, submits this Notice of Removal in accordance with 28 U.S.C. §§ 1332, 1441 and 1446, and the United States District Court for the Southern District of New York Local Rule of Civil Procedure 81.1, and respectfully includes the following statements:

1. On or about April 21, 2022, the Plaintiff Eliza Ramos (hereinafter “Plaintiff”), filed a Summons and Verified Complaint in the Supreme Court of the State of New York, County of Bronx. The civil action was entitled Eliza Ramos v. AMF Bowling Centers, Inc. and bears Index Number 806163/2022E. A copy of the Summons & Complaint is annexed here to as **Exhibit “A.”**

2. As asserted in the Complaint, Plaintiff seeks damages arising out of alleged personal injuries sustained in a slip and fall incident purportedly occurring on a certain premises owned, leased, managed, maintained, operated and/or controlled by Defendant-Petitioner. As per discovery responses received from Plaintiff’s counsel¹, the total damages to which plaintiff deems

¹ Although the caption set forth in Plaintiff’s discovery response indicates that Bowlero Corporation and Bowlmor Lanes are also Defendants to the instant action, such was in error.

herself entitled to is five-million dollars (\$5,000,000.00) as to each cause of action. Accordingly, the amount in controversy in this suit is in excess, exclusive of interests and costs, of \$75,000.

3. There is complete diversity of citizenship pursuant to 28 U.S.C. § 1332. The citizenship of the parties is as follows:

- a. Plaintiff Eliza Ramos is now, and was at the time said action was commenced, a resident and domiciliary of the State of New York residing, upon information and belief, at 6024 Delafield Avenue, Bronx, New York; and
- b. Defendant-Petitioner AMF Bowling Centers, Inc. was and continues to be a Virginia corporation organized and existing under the laws of the State of Virginia, having its principal place of business in Virginia, 7313 Bell Creek Road Mechanicsville, Virginia.

4. The State Action was commenced against Defendant-Petitioner on or about April 21, 2022.

5. On June 6, 2022, Defendant-Petitioner filed and served a Verified Answer and Affirmative Defenses, along with a Notice of Deposition and Demand for *Ad Damnum*. In response, Plaintiff served a document dated September 22, 2022, entitled “Combined Reply to D&I; Response to Supplemental Demand and Notice of Availability,”² which set forth a demand of five million dollars (\$5,000,000). Defendant-Petitioner received same on September 27, 2022, via regular mail. Copies of Defendant-Petitioner’s Demand for *Ad Damnum* and Plaintiff’s Response (without exhibits thereto) are collectively annexed hereto as **Exhibit “B.”**

6. On September 23, 2022, Plaintiff filed a Request for Judicial Intervention and Request for Preliminary Conference. On September 30, 2022, the Bronx County Supreme Court

² No demand for discovery and inspection, or discovery demands other than the Notice of Deposition and Demand for *Ad Damnum*, were served upon Plaintiff by Defendant-Petitioner.

issued a Notification setting forth the requirement to propose a Preliminary Conference Order. No Preliminary Conference Order has been proposed to date. No other proceedings have occurred in the State Court action.

7. This motion is timely filed pursuant to 28 U.S.C. § 1446(b)(3), on the grounds and to the extent that Defendant-Petitioner filed its Notice of Removal within 30 days of receipt of Plaintiff's "Combined Reply to Demand for D&I; Response to Supplemental Demand and Notice of Availability", asserting an amount in controversy in excess of \$75,000, which was received by Defendant-Petitioner via regular mail on September 27, 2022.³

8. Said action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is complete diversity of citizenship between Plaintiff and Defendant-Petitioner.

9. Written filing of this motion will be given to Plaintiff promptly after the filing of this Motion, as required by law.

10. A true and correct copy of this Motion will be filed with the Clerk of the Supreme Court of the State of New York, Bronx County promptly after the filing of this motion, as required by law.

11. Attached to this Motion, and by reference made a part hereof, is an index identifying each document filed and/or served in the State Action, annexed hereto as **Exhibit "C,"** along with true and correct copies of all documents filed and/or served in the State Action, annexed hereto as **Exhibit "D."**

³ Even if the removal deadline were to be calculated by the date of Plaintiff's response, September 22, 2022, removal is still timely, as October 22, 2022 was a Saturday. *See* FRCP 6(a)(1)(C) (providing that when the deadline to file falls on a Saturday, the deadline is carried over to the next business day).


12. By filing this Notice of Removal, Defendant-Petitioner does not waive any defense which may be available to it, specifically including, but not limited to, its right to contest in personam jurisdiction over Defendant-Petitioner, improper service of process upon the Defendant-Petitioner, and the absence of venue in this Court or in the court from which the action has been removed.

WHEREFORE, Defendant-Petitioner AMF Bowling Centers, Inc., prays that this action proceed in this Court as an action properly removed thereto.

Dated: White Plains, New York
October 24, 2022

Yours, etc.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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